

1 **STATE OF IOWA**
2 **BOARD OF EDUCATIONAL EXAMINERS**
3 **Grimes State Office Building – 400 East 14th Street**
4 **Des Moines, Iowa 50319-0147**

5
6 **Minutes**
7 **March 8, 2013**
8

9 The Board of Educational Examiners held its monthly meeting on March 8, 2013.
10 Dr. Bev Smith called the meeting to order. Members attending were Julio Almanza,
11 Tammy Duehr, Dan Dutcher, Brenda Garcia-Van Auken, Dr. Larry Hill, Oscar Ortiz,
12 Mary K. Overholtzer, Laura Stevens, Carol Trueg and Richard Wortmann. Also in
13 attendance was Duane Magee, Executive Director, Julie Bussanmas, Assistant
14 Attorney General, Darcy Lane, Attorney/Investigator and Jim McNellis, Investigator.
15 Dr. Jason Glass was unable to attend.

16
17 Duane Magee introduced our newest board member, Dan Dutcher. Mr. Dutcher is
18 the public member representative replacing Merle Johnson who resigned in October.

19
20 Bev Smith introduced Anne Sullivan, who was in the audience. Ms. Sullivan is a new
21 board member who will be joining the board effective May 1, 2013.

22
23 Laura Stevens moved, with a second by Larry Hill, to approve the amended agenda.
24 (#9c-Items for Discussion-remove 1 and 2; #10-Waivers-remove; #11-
25 Reports/Approvals, remove 4 and 5-these will return for the April meeting.) **MOTION**
26 **CARRIED UNANIMOUSLY.**

27
28 Carol Trueg moved, with a second by Julio Almanza, to approve the consent agenda.
29 **MOTION CARRIED UNANIMOUSLY.**

30
31 Julio Almanza moved, with a second by Oscar Ortiz, that the Board go into closed
32 session for the purposes of discussing whether to initiate licensee disciplinary
33 proceedings and discussing the decision to be rendered in a contested case, pursuant

1 to Iowa Code sections 21.5(1)(d) and (f). Roll call vote: Almanza – yes; Duehr – yes;
2 Dutcher – yes; Garcia-Van Auken – yes; Hill – yes; Ortiz – yes; Overholtzer – yes; Smith
3 – yes; Stevens – yes; Trueg – yes; Wortmann – yes. **MOTION CARRIED.**

4
5 Brenda Garcia-Van Auken moved, with a second by Julio Almanza, that in **case**
6 **number 12-97**, the Board find that, although one or more of the allegations in the
7 complaint may be substantiated by the witnesses interviewed in the course of the
8 investigation [and/or] the documents gathered in the course of the investigation, and
9 the allegations may constitute a technical violation of the board’s statute or
10 administrative rules; the evidence before the board indicates that the alleged violation
11 was an isolated incident and adequate steps have been taken to remedy the violation
12 and to ensure that incidents of a similar nature do not occur in the future. The Board
13 will not pursue formal disciplinary action in this matter. **MOTION CARRIED**
14 **UNANIMOUSLY.**

15
16 Tammy Duehr moved, with a second by Oscar Ortiz, that in **case number 12-103**, the
17 Board find that the evidence gathered in the investigation, including witness
18 statements and the documentary evidence, does not substantiate the allegations in the
19 complaint, and that the Board therefore lacks probable cause to proceed with this
20 matter. **MOTION CARRIED UNANIMOUSLY.**

21
22 Brenda Garcia-Van Auken moved, with a second by Tammy Duehr, that in **case**
23 **number 12-104**, the Board find probable cause to establish a violation of the following
24 provisions of the Code of Professional Conduct and Ethics, 282 IAC – Chapter
25 25.3(4)(b), 25.3(6)(c) and (d), and order this case set for hearing. **MOTION CARRIED**
26 **UNANIMOUSLY.**

27
28 Oscar Ortiz moved, with a second by Julio Almanza, that in **case number 12-108**, the
29 Board find probable cause to establish a violation of the following provisions of the
30 Code of Professional Conduct and Ethics, 282 IAC – Chapter 25.3(1)(b)(1), and order
31 this case set for hearing. Roll call vote: Almanza – yes; Duehr – yes; Dutcher – yes;
32 Garcia-Van Auken – yes; Hill – yes; Ortiz – yes; Overholtzer – yes; Smith – yes; Stevens
33 – yes; Trueg – yes; Wortmann – recused. **MOTION CARRIED.**

1 Julio Almanza moved, with a second by Oscar Ortiz, that in **case number 12-109**, the
2 Board find probable cause to establish a violation of the following provisions of the
3 Code of Professional Conduct and Ethics, 282 IAC – Chapter 25.3(1)(b)(1), and order
4 this case set for hearing. **MOTION CARRIED UNANIMOUSLY.**

5
6 Tammy Duehr moved, with a second by Oscar Ortiz, that in **case number 12-113**, the
7 Board find probable cause to establish a violation of the following provisions of the
8 Code of Professional Conduct and Ethics, 282 IAC – Chapter 25.3(2)(b), 25.3(3)(c),
9 25.3(6)(c) and (m), and order this case set for hearing. **MOTION CARRIED**
10 **UNANIMOUSLY.**

11
12 Brenda Garcia-Van Auken moved, with a second by Tammy Duehr, that in **case**
13 **number 12-115**, the Board find probable cause to establish a violation of the following
14 provisions of the Code of Professional Conduct and Ethics, 282 IAC – Chapter
15 25.3(1)(b)(2), 25.3(1)(e)(4) and (5), 25.3(2)(b), and 25.3(6)(c) and (m), and order this
16 case set for hearing. **MOTION CARRIED UNANIMOUSLY.**

17
18 Brenda Garcia-Van Auken moved, with a second by Oscar Ortiz, that in **case number**
19 **12-116**, the Board find that, although one or more of the allegations in the complaint
20 may be substantiated by the witnesses interviewed in the course of the investigation
21 [and/or] the documents gathered in the course of the investigation, and the allegations
22 may constitute a technical violation of the board's statute or administrative rules; the
23 evidence before the board indicates that the alleged violation was an isolated incident
24 and adequate steps have been taken to remedy the violation and to ensure that
25 incidents of a similar nature do not occur in the future. The Board will not pursue
26 formal disciplinary action in this matter. Roll call vote: Almanza – no; Duehr – yes;
27 Dutcher – yes; Garcia-Van Auken – yes; Hill – yes; Ortiz – yes; Overholtzer – yes; Smith
28 – yes; Stevens – yes; Trueg – yes; Wortmann – yes. **MOTION CARRIED.**

29
30 Tammy Duehr moved, with a second by Brenda Garcia-Van Auken, that in **case**
31 **number 12-121**, the Board find probable cause to establish a violation of the following
32 provisions of the Code of Professional Conduct and Ethics, 282 IAC – Chapter
33 25.3(1)(e)(4), and order this case set for hearing. Roll call vote: Almanza – yes; Duehr –

1 yes; Dutcher – yes; Garcia-Van Auken – yes; Hill – yes; Ortiz – yes; Overholtzer – yes;
2 Smith – yes; Stevens – yes; Trueg – yes; Wortmann – recused. **MOTION CARRIED.**

3
4 Tammy Duehr moved, with a second by Julio Almanza, that in **case number 12-136**,
5 the Board find probable cause to establish a violation of the following provisions of the
6 Code of Professional Conduct and Ethics, 282 IAC – Chapter 25.3(6)(c), (d), (j), and (l),
7 and order this case set for hearing. **MOTION CARRIED UNANIMOUSLY.**

8
9 Julio Almanza moved, with a second by Tammy Duehr, that in **case number 12-137**,
10 the Board find probable cause to establish a violation of the following provisions of the
11 Code of Professional Conduct and Ethics, 282 IAC – Chapter 25.3(6)(c) and (d), and
12 order this case set for hearing. **MOTION CARRIED UNANIMOUSLY.**

13
14 Tammy Duehr moved, with a second by Oscar Ortiz, that in **case number 13-04**, the
15 Board find probable cause to establish a violation of the following provisions of the
16 Code of Professional Conduct and Ethics, 282 IAC – Chapter 25.3(2)(b) and 25.3(6)(c)
17 and 25.3(6)(m), and order this case set for hearing. Roll call vote: Almanza – yes;
18 Duehr – yes; Dutcher – yes; Garcia-Van Auken – yes; Hill – yes; Ortiz – yes;
19 Overholtzer – recused; Smith – yes; Stevens – yes; Trueg – yes; Wortmann – yes.
20 **MOTION CARRIED.**

21
22 Tammy Duehr moved, with a second by Julio Almanza, that in **case number 13-09**,
23 the Board find probable cause to establish a violation of the following provisions of the
24 Code of Professional Conduct and Ethics, 282 IAC – Chapter 25.3(3)(b) and (e) and
25 25.3(6)(b), and order this case set for hearing. **MOTION CARRIED UNANIMOUSLY.**

26
27 Oscar Ortiz moved, with a second by Tammy Duehr, that in **case number 11-98**, the
28 Board accept the Respondent's waiver of hearing and voluntary surrender and that the
29 Board issue an order permanently revoking the Respondent's license with no
30 possibility of reinstatement. Roll call vote: Almanza – yes; Duehr – yes; Dutcher – yes;
31 Garcia-Van Auken – yes; Hill – yes; Ortiz – yes; Overholtzer – yes; Smith – recused;
32 Stevens – yes; Trueg – yes; Wortmann – yes. **MOTION CARRIED.**

1 Brenda Garcia-Van Auken moved, with a second by Tammy Duehr, that in **case**
2 **number 12-35**, the Board accept the Respondent's waiver of hearing and voluntary
3 surrender and that the Board issue an order permanently revoking the Respondent's
4 license with no possibility of reinstatement. **MOTION CARRIED UNANIMOUSLY.**

5
6 Tammy Duehr moved, with a second by Brenda Garcia-Van Auken, that in **case**
7 **number 12-37**, the Board accept the Respondent's waiver of hearing and voluntary
8 surrender and that the Board issue an order permanently revoking the Respondent's
9 license with no possibility of reinstatement. **MOTION CARRIED UNANIMOUSLY.**

10
11 Brenda Garcia-Van Auken moved, with a second by Julio Almanza, to extend the 180-
12 day deadline for issuance of the final decision in **case number 12-102**, based upon
13 the amount of time needed to complete the investigation and review by the Board.
14 **MOTION CARRIED UNANIMOUSLY.**

15
16 Tammy Duehr moved, with a second by Oscar Ortiz, to extend the 180-day deadline
17 for issuance of the final decision in **case number 12-104**, based upon the amount of
18 time needed to complete the investigation and schedule the hearing. **MOTION**
19 **CARRIED UNANIMOUSLY.**

20
21 Brenda Garcia-Van Auken moved, with a second by Tammy Duehr, to extend the 180-
22 day deadline for issuance of the final decision in **case number 12-108**, based upon
23 the amount of time needed to complete the investigation and schedule the hearing.
24 Roll call vote: Almanza – yes; Duehr – yes; Dutcher – yes; Garcia-Van Auken – yes; Hill
25 – yes; Ortiz – yes; Overholtzer – yes; Smith – yes; Stevens – yes; Trueg – yes;
26 Wortmann – recused. **MOTION CARRIED.**

27
28 Tammy Duehr moved, with a second by Richard Wortmann, to approve the closed
29 session minutes of January 17, 2013. **MOTION CARRIED UNANIMOUSLY.**

30
31 The Board was reminded that if they receive any calls from the public or the media
32 regarding professional practices, they should not discuss but refer them Duane
33 Magee.

1 Communication from the Public:

2 None.

4 Board Communications:

5 Julio Almanza commented that there was excellent work accomplished by all at
6 yesterday's work session.

8 Laura Stevens shared comments from her administrator that whenever he calls the
9 Board of Educational Examiners (BOEE) to get a question(s) answered, he is amazed
10 because he always gets put through directly to the person who can answer his
11 question.

13 Tammy Duehr will be going to the University of Dubuque to present an ethics
14 presentation to the student teachers.

16 Oscar Ortiz received calls from band directors regarding private lessons and being paid
17 and referred them to the BOEE. Darcy Lane responded that she has received some
18 calls. Ms. Bussanmas indicated that this came before the Board previously – regarding
19 tutoring in general. The Board never really moved forward with any action that would
20 prohibit it. Currently, there is only the solicitation, not just tutoring in general. Mr.
21 Magee suggested approaching the Music Teachers Association regarding this matter.
22 Mr. Magee also stated that the local districts should have policies in place as well.
23 Ms. Lane will have conversations with people, gather information and bring it back to
24 the Board.

26 Carol Trueg raised a concern regarding the latest appointments to the Board--There is
27 not a non-public member on the Board going forward. It has been a long-standing
28 and unwritten rule that there be representation. The explanation for this was an
29 oversight by the Boards and Commissions. Going forward in the next round of
30 appointments, Ms. Trueg hopes that would be a point of priority given the number of
31 practitioners in the non-public, accredited schools.

1 Executive Director's Report:

2 Mr. Magee reviewed the financial report with the Board.

3
4 Mr. Magee updated the Board regarding digitizing the professional practices packet.
5 We have a waiver through DAS-ITE so that we can move forward. Board members
6 were reminded to leave their iPads at the end of the day. We may have to have one
7 more paper packet if we can't coordinate the delivery of the iPads.

8
9 Update on the new software RFP – we have had three vendor presentations. There will
10 be two more presentations – one in March and April. We are hopeful that we can move
11 forward in April after the last presentation.

12
13 Mr. Magee thanked the Board for a great work session yesterday. He appreciated all
14 the effort that was put in yesterday and having the collection of people and the level of
15 conversation that took place was great. The focus was on what is best for kids and
16 that's what is exciting. Mr. Magee also thanked the BOEE staff for their time in
17 preparing for the work session.

18
19 Regarding professional practices – Mr. Magee thanked Darcy, Jim and Julie for their
20 efforts to really get through cases in a focused and precise way.

21
22 Mr. Magee spoke regarding board appointments – there are no concerns regarding
23 board performance. He thanked Oscar Ortiz and Carol Trueg for their efforts on the
24 board.

25
26 Larry Hill commended Mr. Magee for his tone of yesterday's work session, which was
27 level and kept people focused. Mr. Magee's approach allowed this to happen.

28
29 Rules:

30 Adopt:

31 None.

1 Notice:

2 Carol Trueg moved, with a second by Larry Hill, to file under Notice of Intended Action,
3 the proposed changes to Chapter 25.3(1)e Student Abuse. **MOTION CARRIED**

4 **UNANIMOUSLY.**

5
6 Laura Stevens moved, with a second by Carol Trueg, to file under Notice of Intended
7 Action, the proposed changes to Chapters 25.3(6) and (7) and 11.4(1)(d) Prohibited
8 grounds for discrimination and failure to comply with a board order. **MOTION**

9 **CARRIED UNANIMOUSLY.**

10
11 Larry Hill moved, with a second by Brenda Garcia-Van Auken, to file under Notice of
12 Intended Action, the proposed changes to Chapters 22.1(3), 22.2b, 23.2, 13.9(2) and
13 22.2(1) Expiration date changes. **MOTION CARRIED UNANIMOUSLY.**

14
15 Items for Discussion:

16 The proposed changes to Chapters 22.1 Coaching Authorization and 13.28(3)
17 Coaching Endorsement, 20.3(7) Renewal were discussed and will be brought back at a
18 future meeting to file under notice of intended action.

19
20 The proposed changes to Chapters 22.7 Authorizations (Classroom driving instructor
21 authorization) were discussed and will be brought back at a future meeting to file
22 under notice of intended action.

23
24 The proposed changes to Chapters 13.3(6) Applicants from Non-Iowa Institutions who
25 have attained national board certification were discussed and will be brought back at
26 a future meeting to file under notice of intended action.

27
28 The proposed changes to Chapter 13.17(4) Military Exchange License were discussed
29 and will be brought back at a future meeting to file under notice of intended action.

30
31 The proposed changes to Chapter 22.3(7) School Business Officials were discussed
32 and will be brought back at a future meeting to file under notice of intended action.

1 The proposed changes to Chapter 18.9 Area and Grade Levels of Administrator
2 Endorsements Renumbering were discussed and will be brought back at a future
3 meeting to file under notice of intended action.

4
5 The proposed changes to Chapter 19.7 Renewal of Administrator Licenses were
6 discussed and will be brought back at a future meeting to file under notice of intended
7 action.

8
9 The proposed changes to Chapter 18.12 Extension of Administrator Exchange, Class B
10 and Class A Licenses were discussed and will be brought back at a future meeting to
11 file under notice of intended action.

12
13 The proposed changes to Chapter 13.28(3) Content Specialist were discussed and will
14 be brought back at a future meeting to file under notice of intended action.

15
16 Petitions for Waiver:

17 None.

18
19 Reports/Approvals

20 Legislative Update: Duane Magee updated the Board regarding current legislation.

21 Reminder: Board Orientation – June 20-21.

22 Board Retreat – August: Possibly hold in Dubuque? Agenda topics to include: Any
23 licensure issues that emerge from the education reform legislation process; ethics
24 training and teacher preparation stand alone course and integrated in existing course.

25 Exhibit Sheets Report: Joanne Tubbs presented to the Board. She reviewed the
26 electronic process of curriculum exhibits. It aligns the work of the BOEE with the
27 colleges.

28 Future Board Meeting Dates: How does the Board want to approach future meetings?
29 Consistent day of the month? Number of meetings per year? How to approach board
30 orientation and the board retreat? Mr. Magee will send a Doodle poll to board
31 members to provide feedback.

1 Next meeting on Friday, April 5, 2013: The governor and lieutenant governor are
2 scheduled to attend to discuss the education reform plan.

3
4 There being no further business, Bev Smith asked for a motion to adjourn the
5 meeting. Carol Trueg moved, with a second by Julio Almanza. The meeting was
6 adjourned at 12:05 p.m.